IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 219 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 12.10.2004 in WP NO : 30367 OF 1998 on the file of the High Court.)

Between:

The District Cooperative Central Bank Ltd., Rep by General Manager, Medak, at Sangareddy

..... APPELLANT

AND

1 M.A. Wahab, S/o. Late M.A. Sattar,
Ex.Employee, H.No. 22-6-1015, Irani Gally, Hyderabad-2
2 The Labour Court II, A.P. Hyderabad.

.....RESPONDENTS

Counsel for the Appellant : SMT.BOBBA VIJAYALAKSHMI

Counsel for Respondent No.1: MR.A.K.JAYAPRAKASH RAO

Counsel for Respondent No.2 : GOVERNMENT PLEADER FOR LABOUR

The Court at the stage of admission, made the following JUDGMENT: (per SAR,J)

The writ appeal is filed by the appellant-writ petitioner aggrieved by the order of a learned single Judge in confirming the order of the Labour Court passed in M.P.No.13 of 1996 dated 5.8.1998 under which back wages for the period from 5.6.1976 to 31.3.1986 were ordered to be paid to the 1st respondent with interest at 12% per annum.

The learned counsel for the appellant-writ petitioner contended that the Labour Court as well as the learned single Judge of this Court were not justified in awarding not only back wages but also interest at 12% per annum in respect of the said arrears. It is stated that the appellant-bank itself is running in losses and is not in a position to pay even the salaries to the regular employees, who are on the rolls. Therefore, the order if allowed to continue, it would affect severely on the financial position of the appellant-bank. The learned counsel also contended that the 1st respondent was awarded back wages only on technical grounds in spite of the fact that the 1st respondent did not render any service to the appellant-bank. Therefore, sought for modification of the order of the Labour Court as confirmed by the learned single Judge.

The learned counsel appearing for the 1st respondent, however, sought to contend that the order passed by the learned single Judge does not call for any interference. According to the learned counsel, as the order of dismissal was set aside, the consequential benefit of reinstatement with back wages etc., has to be given to the

1st respondent by the appellant-bank, but the appellant-bank failed to pay the back wages. Therefore, the 1st respondent was constrained to approach the Labour Court, which has passed the award in his favour. There is no illegality or irregularity warranting interference by this Court.

Heard both sides and considered the material on record.

Admittedly, the 1st respondent was dismissed from service on 5.6.1976. Thereafter, proceedings such as an appeal were taken out under the provisions of the A.P. Shops and Establishment Act (for short '**the Act**') and thereafter the writ petition as well as the writ appeal, were filed before this Court. Finally, the order of dismissal was set aside by this Court on the ground that there was no proper enquiry and directed for reinstatement. Accordingly, the 1st respondent was reinstated on 1.4.1986. Thereafter, a fresh enquiry was conducted and order of removal was passed on 15.4.1989, which order has become final as the Industrial Dispute raised by the 1st respondent was dismissed. Subsequently, the 1st respondent filed M.P.No.13 of 1996 before the Labour Court claiming back wages for the period from 5.6.1976 to 31.3.1986 on the ground that the original order of dismissal was set aside as a result of which, he is deemed to be in service and therefore he is entitled for the arrears. The Labour Court granted the relief quantifying an amount of Rs.1,55,080.84. Apart from awarding back wages, the Labour Court also directed the appellant-bank to pay simple interest at 12% per annum on the arrears from the date of the award.

According to the learned counsel for the appellant-bank, since the 1st respondent did not render any service during the period when he was out of service due to his dismissal, though ultimately the order of dismissal was set aside on the ground that the enquiry was not properly conducted but finally as he was dismissed from service in the fresh enquiry conducted, he is not entitled for any of the arrears. Therefore, there is no justification in awarding the arrears that too with interest at 12% per annum.

On consideration of the material on record, though we are not inclined to accept the said contention of the learned counsel for the appellant-bank, but, however, we are of the opinion that the 1st respondent is not entitled for any interest especially keeping in view the financial position of the appellant-bank.

Under the above circumstances, the order of the Labour Court as confirmed by the learned single Judge, insofar as awarding interest at 12% per annum is concerned, it is liable to be set aside and accordingly, we set aside the award of interest on arrears and the 1st respondent is not entitled for interest on the arrears.

At the time of hearing, it is represented that 50% of the arrears have already been deposited before the Labour Court by the appellant-bank, which was withdrawn by the 1st respondent and with reference to the balance amount, the appellant-bank is directed to deposit the same, within a period of three months from the date of receipt of a copy of the order. The 1st respondent is not entitled for any interest on the arrears.

Accordingly, the writ appeal is allowed in part.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

Dt: 16.02.2005

bsv/lvl

TO

1. The District Cooperative Central Bank Ltd., Rep by General Manager, Medak, at Sangareddy

2. The Presiding Officer, Labour Court II, A.P. Hyderabad.

3. Two CCs to the Government Pleader for Labour, High Court of A.P., Hyderabad (OUT)

4. Two CD Copies